

1 DANIEL M. FEINBERG (Cal. State Bar No. 135983)
2 LEWIS, FEINBERG, RENAKER & JACKSON, P.C.
3 1330 Broadway, Suite 1800
Oakland, California 94612
Telephone: (510) 839-6824
Facsimile: (510) 839-7839
E-mail: dfeinberg@lewisfeinberg.com

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5 (Additional counsel listed on second page)

6 Attorneys for Plaintiff Gustavo Herrera

7 JEFFREY D. WOHL (Cal. State Bar No. 96838)
PAUL, HASTINGS, JANOFSKY & WALKER LLP
8 55 Second Street, 24th Floor
San Francisco, California 94105-3441
Telephone: (415) 856-7000
Facsimile: (415) 856-7100
10 E-mail: jeffwohl@paulhastings.com

11 (Additional counsel listed on second page)

12 Attorneys for Defendant Sodexho, Inc.

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN JOSE DIVISION

18 GUSTAVO HERRERA individually and
on behalf of others similarly situated, and
19 the general public,

No. C-05-1247-JF

**STIPULATION AND [PROPOSED] ORDER RE:
JUNE 30, 2006 STATUS CONFERENCE**

20 Plaintiff,

21 vs.

22 SODEXHO, INC., a Delaware corporation,
and Does 1 through 10, inclusive,

23 Defendants.

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26
27
28 STIPULATION AND ORDER RE: STAY
U.S.D.C., N.D. Cal., No. C-05-1247-JF

1 Additional counsel for plaintiff:

2 AARON KAUFMANN (Cal. State Bar No. 148580)
3 DAVID POGREL (Cal. State Bar No. 203787)
4 HINTON, ALFERT & SUMNER
5 1646 No. California Blvd., Suite 600
6 Walnut Creek, California 94596
Telephone: (925) 932-6006
Facsimile: (925) 932-3412
E-mail: kaufmann@hinton-law.com
E-mail: pogrel@hinton-law.com

7 JOHN W. BEEBE (Cal. State Bar No. 183500)
8 GREEN & AZEVEDO
1234 H Street
9 Sacramento, California 95814
Telephone: (916) 446-7701
Facsimile: (916) 446-3430
E-mail: jbeebe@green-azevedo.com

11 Additional counsel for defendant:

12 STEPHEN H. HARRIS (Cal. State Bar No. 184608)
13 PAUL, HASTINGS, JANOFSKY & WALKER LLP
14 515 South Flower Street, 25th Floor
Los Angeles, California 90071
Telephone: (213) 683-6000
Facsimile: (213) 627-0705
15 E-mail: stephenharris@paulhastings.com

STIPULATION

Plaintiff Gustavo Herrera and defendant Sodexho, Inc., acting through their respective counsel of record, hereby stipulate as follows:

1. This action, *Herrera v. Sodexho, Inc.*, U.S.D.C., N.D. Cal., No. C-05-1247-JF (“*Herrera*”), and a related action, *Cevallos v. Sodexho, Inc.*, U.S.D.C., N.D. Cal., No. C-05-1671-JF (“*Cevallos*”), both are currently pending before this Court. A status conference in both actions is scheduled for Friday, June 30, 2006.

2. On December 15, 2005, the parties in *Herrera* and *Cevallos* participated in a private mediation before Antonio C. Piazza of Gregorio, Haldeman, Piazza, Rotman & Frank, which produced a settlement of both actions.

3. Because both actions are putative class actions, the settlement is subject to preliminary and final judicial approval before it may become effective.

4. As part of the settlement, and to avoid any issue of whether this Court has jurisdiction over the actions to approve a settlement (due to the question whether plaintiffs' claims are preempted by the Employee Retirement Income Security Act of 1974), the parties agreed to file a new action in Alameda County Superior Court (the "Superior Court") for the sole purpose of obtaining preliminary and final judicial approval of the settlement. The parties further agreed that should final judicial approval of the settlement be given, then the parties would stipulate to dismissal of *Herrera* and *Cevallos*. The parties further agreed that should the settlement not be approved, then the Superior Court action would be dismissed and the parties would request the Court to lift the stay in *Herrera* and *Cevallos*.

5. On May 9, 2006, plaintiffs filed the new action in the Superior Court, entitled *Cevallos, et al. v. Sodexho, Inc.*, No. RG06268867.

6. On June 6, 2006, the Superior Court granted preliminary approval of the settlement. A true and correct copy of the Superior Court's preliminary approval order is attached to this stipulation. The final approval hearing on the settlement will be held on October 19, 2006.

7. The parties therefore believe there is good cause for, and on that basis request, a continuance of the June 30, 2006, Status Conference until January 2007.

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1 8. The parties anticipate that the settlement will receive final judicial approval in October
2 2006, and become final 60 days thereafter. If the settlement becomes final, then the parties will file a
3 stipulation of dismissal of this action and the *Cevallos* action pursuant to the terms of the settlement
4 agreement and the January 2007 status conference will not be necessary.

5 9. Nothing in this stipulation is intended to constitute a waiver by either side of its
6 respective position on whether the Court has jurisdiction over *Herrera* or *Cevallos*.

7 I, Daniel Feinberg, attest, pursuant to General Order No. 45, Rule X, that Jeffrey Wohl concurred
8 in the filing of this document.

9 Dated: June 12, 2006.

10 DANIEL FEINBERG
11 LEWIS, FEINBERG, RENAKER & JACKSON P.C.

12 AARON KAUFMANN
13 DAVID POGEL
14 HINTON, ALFERT & SUMNER

15 JOHN W. BEEBE
16 GREEN & AZEVEDO

17 By: _____

18 Daniel Feinberg
19 Attorneys for Plaintiff Gustavo Herrera

20 Dated: June 12, 2006.

21 JEFFREY D. WOHL
22 STEPHEN H. HARRIS
23 PAUL, HASTINGS, JANOFSKY & WALKER LLP

24 By: _____

25 Jeffrey D. Wohl
26 Attorneys for Defendant Sodexho, Inc.

ORDER

Based on the parties' stipulation, and good cause appearing therefor,

IT IS ORDERED that the June 30, 2006, status conference be and hereby is VACATED. Unless this action is dismissed beforehand, in which the status conference will be automatically vacated, the parties are directed to report to the Court on January 12, 2007, to report on the status of the approval process.

Dated: June 13, 2006.

Jeremy Fogel
United States District Judge